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ABSTRACT

This paper asserts that while many factors contribute to the poor quality of education in New York City public schools, one of the primary obstacles to guaranteeing the right to education is a widespread lack of accountability by school officials. This lack of participation is tied to the school system's failure to ensure effective participation by parents and communities. The paper draws from a series of interviews with parents, community organizers, and education advocates to identify and critique obstacles to participation that exist in the current school system. In addressing the the role of civil society, the paper relies on international standards on civil, political, and human rights, including the United Nations' World Declaration on Education for All. Section 1, "New York City Fails to Ensure the Human Right to Education," describes the situation. Section 2, "Civil Society and the Right to Participation," discusses the importance of civil society participation in revitalizing urban public schools. Section 3, "Ensuring Parent and Community Participation in NYC Schools," discusses structures for participation (effectiveness, power, and equitable representation; creating accessible and welcoming environments for participation; transparency and adequate access to information; and building the capacity of parents and communities for informed and effective participation). Part 4, "Building Human Rights Structures: The Role of an Ombudsperson for the Right to Education," describes the responsibilities of the office of a human rights ombudsperson. An appendix presents articles on the right to educationfound in principal human rights conventions and declarations; excerpts from declarations, general comments and other documents expanding on the right to education; and excerpts from covenants and general comments on the right to participation. (Contains 57 endnotes.) (SM)

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Civil Society and School Accountability:

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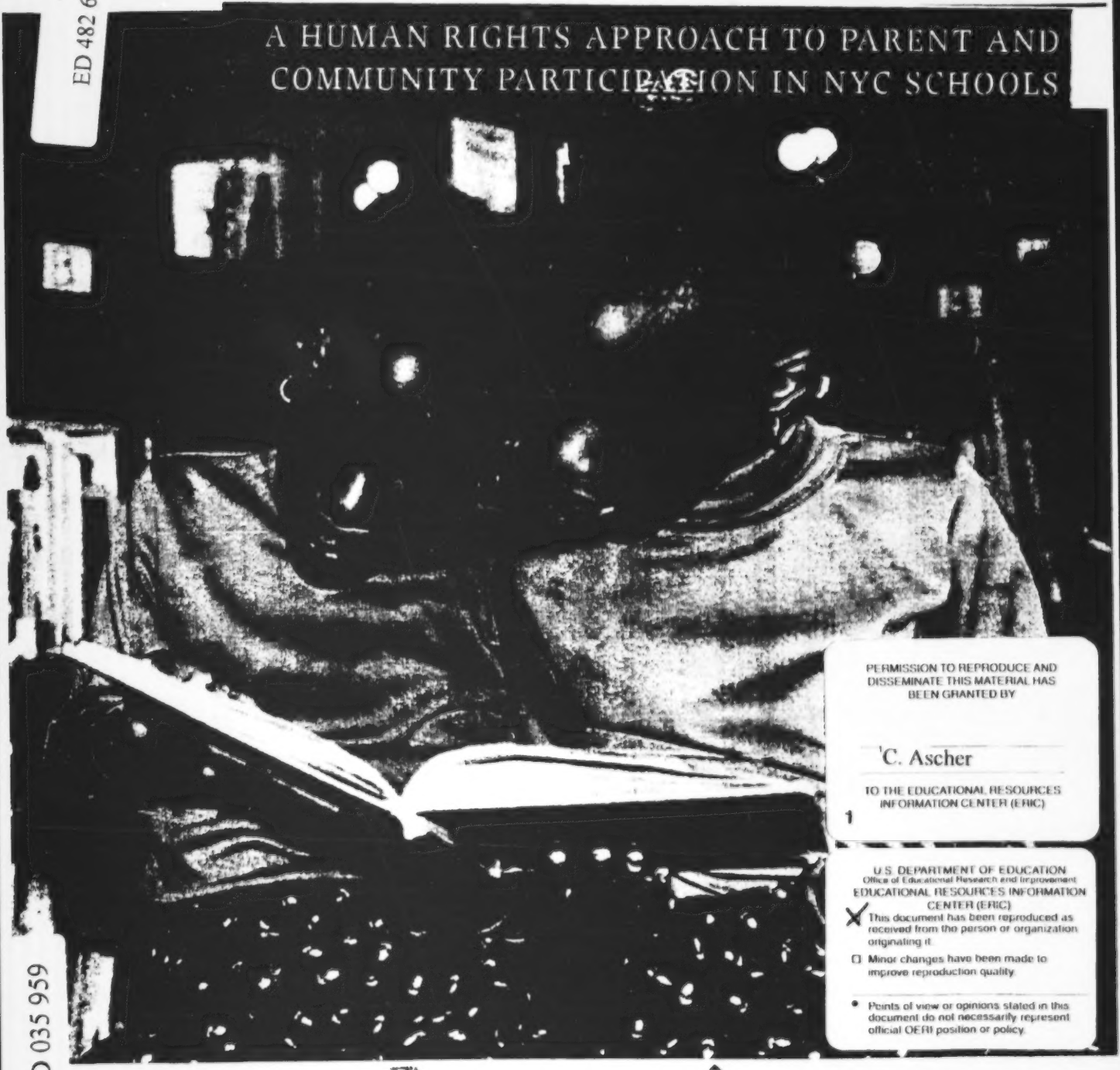
A HUMAN RIGHTS APPROACH TO PARENT AND COMMUNITY PARTICIPATION IN NYC SCHOOLS



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Civil Society and School Accountability:

A HUMAN RIGHTS APPROACH TO PARENT AND COMMUNITY PARTICIPATION IN NYC SCHOOLS

By Elizabeth Sullivan

Editors:
Catherine Albisa,
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June 2003

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Civil Society and School Accountability was produced by CESR in collaboration with the IESP's Community Involvement Program (CIP). CIP was initiated in 1996 to support community organizing for school reform. CIP provides strategic support and assistance to community groups organizing parents and young people to improve their schools, as well as to groups collaborating to shape more effective and equitable education policies in New York City.

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FOREWORD

It gives me a great deal of pleasure to support this civil-society initiative towards a rights-based governance structure for the schools in New York City. My hope is that New York City will join the precedent-setting moves around the globe in setting up an accessible, welcoming and representative public institution on behalf and at the behest of school children and their parents.

As always and everywhere, it is civil society that leads in exposing and opposing human rights violations. The spotlight on education is well-timed. This publication simply and clearly diagnoses the many wrongs in education, ranging from the well-known racial profile of the denial of the right to education, to the absence of any help for immigrant parents in understanding how the system works, to the widespread incomprehension of the jargon used by education bureaucracy, or to the simple fact that most teachers do not have telephones. It recalls and highlights the lack of responsiveness to the much cited evidence of the many wrongs. To its great credit, it does not stop there but identifies barriers to change and suggests effective ways for overcoming them.

Righting wrongs is the essence of human rights activism. The suggestion that an Ombudsperson for the Right to Education be explored as a step forward is excellent. More than any other category, school children need a public institution to defend and promote their rights. More than any other area, education needs a public institution to bring undetected human rights violations to light, and to remedy them rapidly and inexpensively.

We can all easily join the authors and editors to affirm that "all of society has a stake in the education of its future citizens." My hope is that many, many will join them in making an Ombudsperson for the Right to Education come true. I shall certainly be among them.

Katarina Tomasevski
UN Special Rapporteur on the Right to Education

EXECUTIVE SUMMARY

"At all levels of decision-making, governments must put in place regular mechanisms for dialogue enabling citizens and civil society organizations to contribute to the planning, implementation, monitoring and evaluation of basic education. This is essential in order to foster the development of accountable, comprehensive and flexible educational management frameworks."

Dakar Framework for Action

A quality education is universally recognized as a fundamental human right. Yet, New York City persistently fails to ensure that its public schools provide a quality education for all students. For example, in 2001, 70% of New York City public school eighth graders tested below grade level, and 20% of high school students dropped out of school before graduation. While many factors contribute to the poor quality of education, parents and advocates universally report that one of the primary obstacles to guaranteeing the right to education is a widespread lack of accountability by school officials. Policies and plans are routinely and systematically disregarded. These failures in accountability affect all schooling issues – from fully funded reading programs that are never implemented to school improvement targets that are never reached.

This lack of accountability is closely tied to the school system's failure to ensure effective participation by parents and communities in the education system. Parents and advocates report that schools systematically exclude low-income parents and communities from participating in school management and oversight, and through this exclusion severely limit the ability of these actors to hold schools accountable for educational failure. As key stakeholders in civil society, parents, community groups and advocates have a fundamental human right to participate in the running of schools in their communities. The human rights system recognizes that participation is an essential component of guaranteeing the fundamental right to education and a necessary factor in monitoring school system performance and ensuring government accountability. International human rights offer a compelling argument and practical framework for ensuring effective civil society participation.

Because Mayor Bloomberg and Chancellor Klein have launched a new round of school reforms, the Children First initiative, this is a particularly critical time to discuss the human rights implications of civil society participation in school management. While the reforms are, in part, geared towards addressing the question of "parental involvement," they fail to approach the question of participation from a human rights perspective. In particular, parents are not given adequate power or guaranteed a welcoming environment with the necessary resources and technical support to make participation meaningful and hold school officials accountable. Furthermore, the reforms fail to ensure broad participation from all sectors of civil society, which includes community groups and other activists.

The paper "Civil Society and School Accountability" provides a conceptual framework for applying human rights standards to the question of civil society participation. It does not address the specific aspects of the reform efforts, but rather provides the parameters by which any reform effort must be assessed in relation to human rights obligations. Drawing from a series of interviews with parents, community organizers and education advocates, this paper identifies and critiques the obstacles to participation that exist in the current school system, and makes recommendations on how to better ensure effective participation. It is our intent that this paper will trigger a broader discussion of how these recommendations might be concretely implemented in relation to specific reform efforts.

Ensuring Parent and Community Participation in NYC Schools

Parents, students, community organizations, advocates and academic institutions all make up the civil society community and have a fundamental human right to participate in the management and oversight of the school system. While all of society has a stake in the education of its future citizens, parent, youth, and community groups play a particularly central role as the stakeholders with the greatest investment in the educational system. These civil society actors are closely tied to the students and communities that schools are meant to serve, and have the knowledge and capacity to most effectively monitor the school system and demand accountability on behalf of students.

Yet, low-income parents regularly face obstacles to participating in their child's education. Existing school structures often fail to take into account the reality of parents' lives – such as long work hours, limited English, single parenthood or inadequate public transportation. School officials also fail to make information accessible to parents or to make processes for decision-making transparent.

These structural obstacles stem from a profound failure to respect and value the contributions parents want to make, collectively and individually, to their children's education. Schools and administrators rarely seem to consider involving parents and the broader community as a central obligation of their work, and often take an adversarial stance toward parents. Consequently, as our interviews indicate, low-income parents are routinely dismissed, mistreated, and excluded.

As new reforms are proposed in New York City, human rights standards can serve as a guide and provide criteria for how to increase civil society participation and government accountability. Based on the human rights framework for participation, this paper offers recommendations for strengthening civil society participation in four key areas:

Structures for Participation: Effectiveness, Power and Equitable Representation

The human rights framework requires that structures are in place to engage civil society – especially parents and community-based organizations – in the full range of educational decision-making. In NYC school districts serving low-income nejghborhoods and communities of color, the majority of school governance and parent involvement structures provide, at best, superficial parental and community engagement with little real effect or impact. To be effective, School Leadership Teams (SLTs) and new district (or regional) level structures created by the Children First reforms need the power to impact decision making and the support and resources to carry out their functions, and should equitably represent the community they serve. New York City, in consultation with civil society groups, needs to:

- Define clear roles for participation structures that empower civil society to have a meaningful impact on education, for example, by granting

them approval or veto over key decisions and the authority to select and evaluate key administrators;
Ensure that parents and community groups who serve on governance bodies are sufficiently represented to enable them to have an impact;
Provide adequate resources to ensure that participation structures are able to carry out their functions; and
Guarantee equal access and adequate representation of all constituencies – particularly the poor, immigrants and minorities – in procedures for electing or selecting representatives to participation structures.

Creating Accessible and Welcoming Environments for Participation

For accountability structures to function effectively, the human rights framework requires that school systems create an environment that welcomes and respects participation and guarantees access across communities and sectors of the public. Yet, many parents feel unwelcome when they approach school officials and have little faith that principals or administrators will consider their concerns. In order for the Children First initiative to effectively strengthen parent and community involvement, school system leadership must create new ways to manage schools and encourage staff and administrators to become more welcoming and accessible practitioners. New York City, in consultation with civil society groups, needs to:

Create system-wide standards for a welcoming school environment and adequate parent and community access, and evaluate principals and other administrators on their effectiveness in meeting these standards;
Ensure that meetings and other structures for participation (ie. SLT meetings, public fora, etc.) provide interpretation, are publicized adequately in advance, and are held at accessible locations and times;
Require principals and other school employees to actively engage parents and communities that are disenfranchised, for example, by developing new communication channels and working with community groups and other local institutions to reach and involve more parents; and
Ensure that superintendents and their staff, as well as parent support centers, are accessible and located within a reasonable distance from the parents and community groups they are meant to serve.

Transparency and Adequate Access to Information

Given how poorly school participation structures function, it is hardly surprising that they fail to ensure transparency of information for parents and the broader public. Although the city school system has made significant strides in providing a variety of school performance data on the web, parents and community members routinely face barriers when trying to access important data and documents. The human rights framework requires that civil society be able to access and interpret relevant information in order to participate in school management and monitor whether the school system is meeting its human rights obligations. To ensure greater transparency and access to information, New York City, in consultation with civil society groups, needs to:

Ensure access to all relevant information such as city-level, district and school budgets, Comprehensive Education Plans (CEPs), data on school and student performance, curricula, and class syllabi;
Ensure the transparency of information so that it is presented in formats that are easy to understand, translated into the primary languages spoken by the community, and disseminated in

a timely manner; and

Work with community-based organizations and other civic actors to develop new and more effective dissemination strategies.

Building the Capacity of Parents and Communities for Informed and Effective Participation

Under the human rights framework, governments are obligated to build the capacity of civil society, especially its primary stakeholders, to make meaningful contributions to the management and oversight of public institutions. Yet, parents in New York City report that they have not been adequately trained or given the necessary tools to build their capacity for meaningful participation. To strengthen the capacity of parent groups and other relevant civil society actors, New York City, in consultation with civil society groups, needs to:

Identify priorities for training, such as workshops on interpreting budgets and CEPs and on the standards children are expected to meet;

Ensure that training sessions are accessible to civil society, held at times of the day and in locations that ensure broad access, and are available in the key languages spoken by the community; and

Ensure that those who conduct trainings are knowledgeable, qualified, and skilled in communicating effectively with parents and communities, for example, by developing trainings with experienced community-based organizations.

Building Human Rights Structures: The Role of an Ombudsperson for the Right to Education

In addition to strengthening participation in these four areas, the human rights framework offers useful models for creating independent structures to monitor human rights compliance and support parent and community participation. Currently, when parents and community-based organizations are unable to resolve an issue at the school level, they have no independent structure or other effective procedure for seeking remedies for violations. An ombudsperson is one classic example of a human rights structure that can facilitate and support effective participation in education governance and create greater transparency of and access to information. At minimum, such an office should:

Monitor and investigate violations of the right to education by gathering information from stakeholders and officials, receiving and investigating complaints from parents and other civil society actors, and analyzing data;

Issue public findings and recommendations documenting violations and failures of government accountability, and suggest corrective measures based on internationally recognized human rights standards;

Serve as an advocate for civil society with government offices and school officials, in particular for instances of widespread or systemic violations; and

Facilitate access to existing remedies for victims of violations and/or file complaints in courts to protect the right to education.

To amplify the voice of civil society and ensure input from a broad array of communities, the office should also work closely with parents and community organizations to organize dialogues about schooling effectiveness and bring undetected violations to light, and to facilitate the exchange of information among groups or institutions undertaking their own monitoring of the right to education.

INTRODUCTION

"The right to a quality education is just as much a God-given and American right as the right to vote or be treated equally. This movement to fix our public school system is another link on the civil rights railroad to equality."

Mayor Michael R. Bloomberg

"But the importance of education is not just practical: a well-educated and enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence."

UN Committee on Economic, Social and Cultural Rights

When he announced his reforms to the New York City school system, Mayor Michael Bloomberg declared that every child has the "right to a quality education."[1] Education, he said, is "as much a God-given and American right as the right to vote...." In fact, the right to education transcends national borders, and is recognized internationally as a universal human right.

ELEANOR ROOSEVELT, AS THE U.S. REPRESENTATIVE AND PRESIDENT OF THE COMMISSION ON HUMAN RIGHTS, WAS ONE OF THE PRIMARY ARCHITECTS OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS.

The Universal Declaration of Human Rights (UDHR) reflects a collective global commitment to provide all children with an education "directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms."[2] Other international instruments specifically obligate governments to provide an education that "shall enable all persons to participate effectively in a free society,"[3] and require that the aims of education be inextricably linked "to the realization of the child's human dignity."[4] These standards are the foundation for defining both the human right to education and the corresponding human rights obligations shared by all governments.

Fulfilling the right to an education is the duty of states and localities in our federal system, and almost every State Constitution in the US, including the New York State Constitution,[5] recognizes the right to an education. Yet, as our research and existing data reveal, hundreds of thousands of New York City children are routinely denied their right to an education by the poor quality of schooling they receive.

Our paper argues that one of the primary culprits for this educational failure is a system-wide lack of government accountability. We further argue that the absence of effective structures for civil society actors[6] to participate in the school system, allows for this lack of accountability to continue.

Mayor Bloomberg and Chancellor Klein have launched a new round of school reforms – the Children First initiative. This initiative attempts to

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improve the quality of education in New York City schools[7] by addressing systemic problems in school governance. Specifically, the reforms aim to:

> Restructure the school system;
> Improve parent engagement and participation;
> Institute a new unified curriculum and improve classroom materials and staff development; and
> Improve educational outcomes in low performing schools.

While the reforms are, in part, geared towards addressing the question of "parental involvement," they fail to approach the question from a human rights perspective and do not ensure effective civil society participation or government accountability. In particular, parents are not given adequate power or guaranteed a welcoming environment with the necessary resources and technical support to make participation meaningful and hold school officials accountable. Furthermore, the reforms fail to ensure broad participation from all sectors of civil society, which includes community groups and other activists.

In this paper, we use the lens of human rights, and the lessons learned from the international human rights movement, to provide a conceptual framework for strengthening parent and community participation in the NYC school system. Rather than provide an in depth analysis of the Children First reforms, this paper offers a broad framework for how human rights standards for participation can be applied to Children First or other reform processes. Based on interviews with parents, community organizers, and advocates,[8] we identify and critique the obstacles to participation that exist in the current school system, and make recommendations based on human rights standards for how to better ensure effective civil society participation.

In addressing the role of civil society, we rely on international standards found in widely ratified human rights treaties, such as the International Covenant on Civil and Political Rights,[9] the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.[10] We also rely on human rights declarations (particularly the World Declaration on Education for All)[11] issued by UN bodies that reflect an international consensus on basic human rights standards. Finally, we use the Dakar Framework for Action,[12] a document developed by over 160 countries, including the United States, at the World Education Forum in April 2000. The Dakar Framework was created by consensus and represents "a collective commitment to action" by participating nation-states.

SECTION ONE

New York City Fails to Ensure the Human Right to Education

"Education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves out of poverty and obtain the means to participate fully in their communities."

UN Committee on Economic, Social and Cultural Rights, General Comment 13

International human rights law, as codified in the covenants and declarations described above, recognizes the right to a fundamental education. These human rights instruments collectively define a fundamental education as "the satisfaction of... 'basic learning needs.'"[13] The World Declaration on Education for All asserts that:

> "these needs comprise both essential learning tools (such as literacy, oral expression, numeracy, and problem solving) and the basic learning content (such as knowledge, skills, values, and attitudes) required by human beings to be able to survive, to develop their full capacities, to live and work in dignity, to participate fully in development, to improve the quality of their lives, to make informed decisions and continue learning." [14]

These basic learning needs are an inherent component of the right to education. The specific content of this right, however, "varies with individual countries and cultures, and inevitably, changes with the passage of time."[15] New York City public school students need to acquire the skills to function in an information-driven society within a complex economy. This requires high-level skills in order to participate in the workforce, engage in political processes and meet ordinary needs such as effectively using the internet or purchasing a home. In this context the majority of New York City public schools do not provide a fundamental education, and in many cases fail to provide even a minimum level of literacy.

For example, in 2001, 70% of New York City public school eighth graders tested below grade level,[16] and 20% of high school students dropped out of school before graduation.[17] Over 300 schools have been identified as "failing,"[18] while many more are categorized as not adequately performing. The scale of this human rights violation is further exacerbated by inequitable funding between urban and suburban schools in New York State,[19] the discriminatory use of special education designations and disciplinary procedures,[20] and the inequitable distribution of experienced teachers.[21]

Moreover, the extraordinary achievement gap between high performing and low performing city schools demonstrates that the violations of the right

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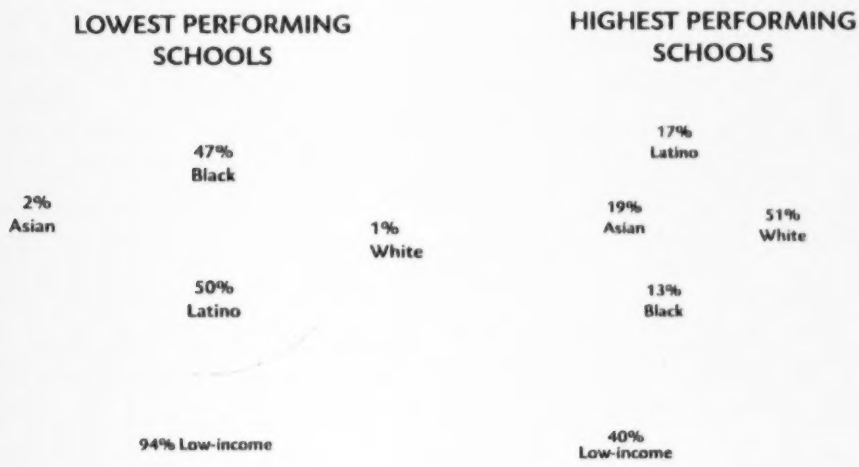
ACHIEVEMENT GAP IN NYC SCHOOLS

Students in the lowest performing schools scored on average 40% lower on elementary school reading tests than students in the highest performing schools.



Data from Stiefel, Leanna, Amy Ellen Schwartz, Patrice Iatarola & Norm Fruchter, *Academic Performance, Characteristics, and Expenditures in New York City Elementary and Middle Schools, A Condition Report*, NY State Department of Education, 2000 (data is from NYC Board of Education 1997-1998 school year).

to a fundamental education are directly tied to the class and race of the student population. For example, in the 1997 to 1998 school year, students in the lowest performing schools scored on average 40% lower on reading tests than students in the highest performing schools.[22] In that same school year, the average student populations in the lowest performing schools were 97% Black and Latino and 94% eligible for the free lunch program – indicating that students are likely to come from low-income homes.[23]

In the highest performing schools, however, the average student populations were only 30% Black and Latino, but 51% White, and only 40% of students were eligible for the free lunch program.[24] These blatant class and race disparities represent a flagrant violation of the most central human rights principle – the right to non-discrimination.

> "An active commitment must be made to removing educational disparities...[T]he poor... ethnic, racial, and linguistic minorities... should not suffer any discrimination in access to learning opportunities."
>
> *World Declaration on Education for All, Article 3*

The State and City of New York have developed and adopted a wide range of policies and goals to address the failure to provide a fundamental education in all New York City public schools. However, our interviews with parents and advocates demonstrate that the most pervasive threat to the right to education is not any specific policy or lack thereof, but rather a widespread and systemic breakdown in accountability in districts serving low-income neighborhoods and communities of color. Policies and strategic plans to improve low performing

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"Oh, please. I don't want to see policies or any more programs that my son's school is SUPPOSED to have. You look at them all, and they look great. But that's not what really happens. For example, my son's school is supposed to have Project Read everyday, it doesn't. So I ask my son, did you have Project Read today? Most days he says no, there was no program. Usually he doesn't have the program more than a couple times a month."

Parent, New Settlement Parent Action Committee

"When the Board of Regents mandated new graduation requirements, they knew that immigrant students still in the process of learning English would not be able to meet the standards without support. They committed to a 12 step plan in order to provide the necessary support. Yet, the twelve step action plan was not fully implemented by the schools. By not providing what was promised, they set these kids up to fail."

Advocate, New York Immigration Coalition

schools are routinely disregarded, with little oversight or consequence. These failures in accountability affect all schooling issues – from fully funded reading programs that are never implemented to school improvement targets that are never met. Without creating real accountability, the right to education cannot be fulfilled.

This breakdown in accountability is closely linked to the school system's failure to ensure effective and meaningful participation by civil society in the management or oversight of the educational system. Parents and advocates report that schools systematically exclude low-income parents and communities from participating in the school system and through this exclusion severely limit the ability of these actors to hold schools accountable for educational failure. The participation of civil society is essential to guarantee independent and effective monitoring of the school system and to ensure accountability.

Photo: Laura Dwight

SECTION TWO

Civil Society and the Right to Participation

"Civil society must be granted new and expanded political and social scope, at all levels of society, in order to engage governments in dialogue, decision-making and innovation around the goals of basic education."

Dakar Framework for Action

Because civil society participation is important for strengthening government accountability, civil society actors play a central role within the human rights framework in ensuring human rights, including the right to education. The concept of civil society has a long history; its roots go back to ancient Greek and Roman culture, which perceived civil society as a body of active citizens organized to support political institutions.[25] In the 17th and 18th centuries, this notion changed and the concept of civil society as something separate from government emerged.[26] In the context of the French revolution, civil society came to mean a community of free and equal citizens able to represent public opinion or a "collective will" separate from the government. [27]

Civil society grew in importance as a social and political force in the 1970's. During this period, dissidents in both Latin America (facing fascism) and Eastern Europe (facing totalitarian communism) reconceptualized civil society as popular associations capable of resisting the State. When dictatorships in those regions fell, civil society continued to develop as a means for rebuilding and reframing democratic societies. Today, a strong civil society is universally seen as critical to revitalizing democracy and building "social capital" – that is, a web of strong relationships within society built on trust and tolerance and capable of addressing social problems.[28]

The international human rights framework recognizes that civil society occupies the space between the government and private individuals. Civil society "is usually considered to embrace the various groups – professional, economic, political, cultural, associative – ...that make up all human society, with different interests that converge at times and conflict at others."[29] "[C]ivil society has many...components: workers,...farmers, professionals, intellectuals and their respective organizations, political parties, grassroots movements in general and so on."[30] Individuals may act as civil society participants without formally belonging to an organization or group, so long as they are not acting to further purely private interests, but rather as part of some overall movement toward a collective goal. When individuals and organizations come together as civil society participants, to mobilize collective assets and engage in "public and collective mediation among disparate interests,"[31] they are more likely to act "in the interests of the entire community, in a spirit of solidarity that prevails over private interests."[32]

The international community has consistently affirmed the right of civil society to participate in government structures and processes essential to fulfilling human rights obligations, including the right to education.[33] Indeed, civic participation of this kind is a fundamental component of any democratic system infused with human rights values. The right to participate extends to all civil society actors – including parents, students, community organizations, and academic institutions. These stakeholders have a right to participate in the creation, decision-making and administration of structures designed to ensure the right to a fundamental education. Through these structures, civil society actors are able to shape the public institutions that serve them and to hold these institutions accountable.

> "Every citizen shall have the right and the opportunity...To take part in the conduct of public affairs..." ****[Including] all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels."
>
> *International Covenant on Civil and Political Rights, Article 25 and UN Human Rights Committee, General Comment 25*

While all of society has a stake in the education of its future citizens, parent and youth groups play a particularly central role as civil society actors. These groupings are the stakeholders with the greatest investment in the educational system. Therefore, the human rights framework recognizes the need for them to have even greater access to accountability structures. Community groups are also key actors, because they have both organizational capacity and community experience, and thus are able to articulate the needs of parents and youth.

> "The indispensable role of the state in education must be supplemented and supported by bold and comprehensive educational partnerships at all levels of society. Education for All implies the involvement and commitment of all to education."
>
> "Civil society has much experience and a crucial role to play in identifying barriers to [Education for All] goals, and developing policies and strategies to remove them."
>
> *Dakar Framework For Action*

The right to participation by civil society actors is also grounded in the contributions these actors make to the educational system. Not only can civil society actors more independently monitor and demand accountability on behalf of students, they can also help educators and officials meet the diverse and changing needs of students; understand the context of the communities in which students live; identify the barriers to their education; and develop policies and strategies for addressing them. Recent research by urban political theorists supports this view of civil society's contribution to improving public schools. Clarence Stone, for example, has linked effective urban school reform to the capacity of civil society to mobilize the resources and political will necessary to address critical schooling issues.[34] Civil society participation is thus an essential component for revitalizing urban public schools.

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SECTION THREE

Ensuring Parent and Community Participation in NYC Schools

"At all levels of decision-making, governments must put in place regular mechanisms for dialogue enabling citizens and civil society organizations to contribute to the planning, implementation, monitoring and evaluation of basic education. This is essential in order to foster the development of accountable, comprehensive and flexible educational management frameworks."

Dakar Framework for Action

The public education system in New York City has traditionally been impermeable to the participation of most civil society actors. Apart from unions, the broad range of actors with a stake in the education system – advocacy groups, policy institutions, think tanks, academia, and other civic elites – have played a minimal and sporadic role in school reform efforts over the years. Although the human rights framework supports broad involvement by the full range of civil society actors, this paper focuses on parents and community groups – the core constituency of the education system – both because of the systematic exclusion these civil society actors face, and the importance of their involvement as primary stakeholders in education.

Parents and advocates report a systematic failure by the New York City government to ensure effective participation by parents and communities in the management and oversight of schools. Indeed, low-income parents in particular regularly face obstacles to participating in their child's education. Existing school structures often fail to take into account the reality of parents' lives – such as long work hours, limited English, single parenthood, or inadequate public transportation. School officials also fail to make information accessible to parents or to make processes for decision-making transparent. Moreover, parent involvement structures usually focus on parenting workshops and organizing bake sales, rather than on creating opportunities for extended dialogue between educators and parents about improving student performance.

These structural obstacles stem from a profound failure to respect and value the contributions parents want to make, collectively and individually, to their children's education. Schools and administrators rarely seem to consider involving parents and the broader community in governance as a central obligation of their work, and often take an adversarial stance toward parents. Consequently, as our interviews indicate, low-income parents are routinely dismissed, mistreated, and excluded.

As new reforms are proposed in New York City, human rights standards can serve as a guide and provide criteria for how to increase civil society participation and government accountability.

HUMAN RIGHTS AND COMMUNITY PARTICIPATION IN EDUCATION

In their work on education around the world, UN agencies partnering with governments have used the human rights framework to establish parent and community participation in the governance and oversight of public school systems. UNICEF programs[1] are based on the principles of the Convention on the Rights of the Child, and the expanded vision of basic education articulated in the World Declaration on Education for All and the Dakar Framework for Action. These programs work across a range of sectors, including governments, funding agencies, foundations, NGOs (non-profit groups), children's organizations, communities and schools, to build strong parent and community participation in order to ensure responsive, accessible and appropriate education for children.

1 UNICEF, *Girls' Education: A Framework for Action*, June 2000.

Although the involvement of all sectors of civil society in our schools needs to be increased, we argue that expanding parent and community participation is a crucial step towards fulfilling the right to education. Specifically, the New York City school system needs to:

a) Create new structures, or strengthen existing participation structures, to enable parents and community groups to meaningfully impact education policy and decision-making;
b) Ensure access to these structures and create a welcoming environment for civil society, in particular for parents and community groups;
c) Make information transparent and available, particularly about schooling processes and outcomes; and
d) Build the capacity of civil society, particularly parents and community groups, for informed participation in education.

To effectively implement these recommendations, the school system should develop clear targets for each of these goals, based on human rights standards, and hold school and city staff accountable for meeting these targets.

A. Structures for Participation: Effectiveness, Power and Equitable Representation

Effective participation by civil society – especially parents and community groups – requires structures that engage these important stakeholders in the full range of educational decision-making, including the management and evaluation of the education system, the budgeting and financing of education, and the structure and substance of curricula and teaching methods.[35] In districts serving low-income neighborhoods and communities of color, the majority of school governance and parent involvement structures provide, at best, superficial parental and community engagement with little real effect or impact.[36]

> "There are mechanisms that exist on paper for parent involvement – we now need to see them implemented – parents need to understand the policies in order to use them."
>
> *Parent, Mothers on the Move*

At the school level, the primary means of participation in governance are Parent Associations or Parent-Teacher Associations (PA/PTAs),[37] and School Leadership Teams (SLTs).[38] Until recently,

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Community School Boards were the primary means for participation in school governance at a district level, [39] although parents also participate on largely advisory district-wide Presidents' Councils comprised of PA representatives from each school. Our interviews suggest that in many schools and districts, particularly in poor communities, these structures

> "There are a lot of policies for participation on paper, but no one implements them. We need to get parents access and input into CEPs. We need to make the Superintendent and schools accountable for following through with CEPs and making SLTs work."
>
> *Parent, Queensbridge Community in Action*

do not function properly, have low levels of participation, or exist only on paper. Even in schools and districts with higher levels of participation, parents and communities lack real power to impact education, and participation structures often fail to reflect the range of socio-economic, racial and linguistic groups represented in the community. As a result, large portions of civil society, in particular parents, are denied their right to participate in the management of our city's schools.

For example, parents report that when they are outnumbered by school staff on SLTs they feel overshadowed, marginalized and powerless to have an impact. They also indicate that too many SLTs are little more than approval mechanisms for principals' policies. Similarly, parents and advocates report that many PA/PTAs focus their activities exclusively on organizing candy sales and raffles and disseminate only the most basic information. Many are dominated by a handful of parents who work closely with the principal, but do not adequately represent the views of the parent community. Parents and advocates also report that most Community School Boards failed to welcome and incorporate the views of large segments of their district's population, and did not effectively encourage broad parent and community participation.

Changing the current dynamic whereby parents and communities are marginalized requires a shift in how educators conceptualize the role of parents and communities in their schools. If parents and community groups are defined as legitimate and critical participants in the process of schooling, they are more likely to be engaged in essential school discussions such as assessing school performance and planning for improvement.

INVOLVING COMMUNITIES IN SCHOOL MANAGEMENT IN BANGLADESH

International models have been developed to allow parents to participate in school improvement. In Bangladesh, for example, the Intensive District Approach to Education for All (IDEAL) Project, a joint initiative between UNICEF and the government, involves parents and community members in developing school management plans. Working with half the formal schools in the country, the project uses parent and community participation as a central strategy for improving the quality of primary education.[1]

Schools in Dinajpur, Bangladesh, for example, begin school improvement planning with small group work in which teachers, parents and others discuss how to make the school a better place.[2] Because of this participation, school officials believe that "[t]he local community now feels that the school belongs to them."[3]

1 UNICEF, *Girls' Education in Bangladesh*, Country Highlights, www.unicef.org/programme/girlseducation/action/ed_profiles/Bangladesh.PDF.
2 *Joyful teaching, joyful learning in Bangladesh*, Focus: The Magazine of Australia's Overseas Aid Program, Vol. 15 No. 2, July 2000.
3 Nur-E-Alam, Assistant District Primary Education Officer for the Rajarampur Government Primary School (RGPS), BSS, Dinajpur in the article *A new approach in education*, The Daily Star, Bangladesh, Vol. 3 No. 1051, August 22, 2002.

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In recent months, parent and community groups in New York City have proposed specific reforms to expand the role of civil society actors at the school and district levels. The Parent Organizing Consortium (POC), for example, has called for strengthening parent participation on SLTs[40] by increasing the number of parents on the team, requiring SLT meetings to be well advertised and open to the public, and giving SLTs significant authority over the hiring and evaluation of school principals. The POC and others have also called for representative and participatory district-level structures that involve parents and community groups in developing district priorities and evaluating superintendent performance.[41]

> "We need to focus on giving the community voice power – schools should not only welcome and encourage parents to participate, they need to be responsible for making sure that parents are involved and can have an impact."
>
> *Organizer, New Settlement Parent Action Committee*

To be effective, the SLTs and new district (or regional) level participatory structures need power to impact decision making and resources to carry out their functions, and should equitably represent the community they serve. New York City, in consultation with civil society groups, needs to:

- Define clear roles for participation structures that empower civil society to have a meaningful impact on education, for example, by granting them approval or veto over key decisions, and the authority to select and evaluate key administrators including principals, superintendents, and the Chancellor;
- Ensure that parents and community groups who serve on governance bodies are sufficiently represented to enable them to have an impact;
- Provide adequate resources to ensure that participation structures are able to carry out their functions; and
- Guarantee equal access and adequate representation of all constituencies – particularly the poor, immigrants and minorities – in procedures for electing or selecting representatives to participation structures.

But formal accountability structures are not sufficient to ensure parent and community participation in schooling. These structures are too easily isolated from the wider community and too easily manipulated by educators to prioritize schooling interests over community concerns. The creation of mechanisms to insure more effective SLTs or district committees does not eliminate the need for far broader input into school or district discussions, for example, through regular public fora that are widely accessible and allow citizens to obtain information and voice their concerns.

Creating Accessible and Welcoming Environments for Participation

For accountability structures to function effectively, school systems must create an environment that welcomes and respects participation and guarantees access across communities and sectors of the public. In the current school system, many school administrators, teachers, district staff and city officials do not believe in or act on the necessity for civil society participation, particularly by parents and community groups. Many parents feel unwelcome when they approach school officials or engage accountability structures (such as SLTs), and have little faith that principals or administrators will consider their concerns.

"If parents go to their children's schools to ask for help, most won't get past the front desk."

Advocate, New York Immigration Coalition

"Some schools find it necessary to be disrespectful to a parent in order to maintain their authority. I was devastated by the way they treated me."

Parent, Queensbridge Community in Action

This lack of respect and commitment stems from a systemic failure to recognize and value the role of civil society, as well as from individual and structural racial and socio-economic biases. Parents and advocates report that poor communities of color face greater barriers and are treated with less respect when trying to access the education system.[42] Because of this lack of respect, parents and community representatives are marginalized and denied access to participation structures, officials, and their children's schools.

The failure to value input from parents and communities also results in structural obstacles to meaningful levels of participation. Meetings presumably scheduled for parents, for example, are held infrequently or at times when parents with heavy workloads cannot easily attend.

Language barriers also make many structures for participation inaccessible. The lack of adequate interpretation services at many meetings of Community School Boards, SLTs and PA/PTAs excludes large numbers of non-English speaking parents from participating. Recent immigrants who are unfamiliar with the school system and do not speak English are unable to access information about the different structures for participation and how parents can become involved and seek assistance.

"There is no system in place right now for helping immigrant parents understand the system. There are language barriers and no understanding of the bureaucracy, so the parents don't engage the schools. Many schools make no effort to communicate and think that the parents aren't interested in their children's education."

Advocate, New York Immigration Coalition

Parents face similar barriers when trying to access individual teachers, principals or district officials. Interpretation is often not available, and telecommunications are at such a rudimentary level in schools that most teachers do not have phones, let alone voice mail or other systems for parents to leave messages. Parents are sometimes denied physical access to schools as well. One parent reported that she was repeatedly denied entry to school premises during the day and was refused access to the principal.

"I know the system and I'm pushy, so I can get in to monitor my kid's classrooms, but most parents will leave and give up the first time they are turned away."

Parent, Mothers on the Move

International organizations offer useful strategies for ensuring access and creating welcoming structures. The United Nations Educational, Scientific and Cultural Organization (UNESCO)[43] has developed guidelines for participation structures at all levels of the education system.[44] School systems must develop a "consistent, system-wide commitment and support to collaboration, participation, and partnerships...[including by]...'removing obstacles to [parent and community] participation – ideological, structural and administrative.'[45] UNESCO further directs schools to be "'welcoming' to parents and the community,"...rather [than] 'disqualify[ing]' community experience and...[viewing schools] as places to which parents 'surrender' their children."[46]

CREATING MORE ACCESSIBLE SCHOOLS IN THE PHILIPPINES

The Parent Learning Support System (PLSS) initiative in the Philippines regularly invites parents into the school to observe classes, and educators work with parents and community members to strengthen PTAs. As a result, PLSS reports that school administrators and staff are more sensitive to parent and student needs, as well as more committed to developing activities for parents and the community.[1] PLSS also reports that because the program brought parents and community members closer to schools, it minimized discontent and conflict between schools, families and communities.[2]

1 Shaffer, Sheldon, *Participation for Educational Change: A Synthesis of Experience*, Paris, 1994, UNESCO: International Institute for Educational Planning at p. 93.
2 *Id.* at p. 100.

UNESCO emphasizes the role of training and support to help principals and teachers function more openly and collaboratively. It specifies that staff and administrators need support in learning "to listen and give credit to the views and needs of others;...to share plans, procedures, and information openly...; [to be] tolerant of conflict, dissent, and compromise...; [and] to see knowledge as residing in both professionals and beneficiaries."[47] They also need support in developing skills to encourage shared, participatory decision-making; define school policies, practices and expectations clearly to the community; and plan and conduct meetings in an open, transparent and collegial environment.[48]

> "It's not that it's too hard to get the parents involved, there is just a lack of commitment and infrastructure for reaching out to them and getting them involved."
>
> *Organizer, New Settlements Parent Action Committee*

The Children First initiative's focus on parent involvement and community engagement suggests that schools and school systems might function in more welcoming and accessible ways. School system leadership can operationalize this promise by creating new ways to manage schools, and encouraging staff and administrators to become more welcoming and accessible practitioners. New York City, in consultation with civil society groups, needs to:

- Create system-wide standards for a welcoming school environment and adequate parent and community access, and evaluate principals and other administrators on their effectiveness in meeting these standards;
- Ensure that meetings and other structures for participation (ie. SLT meetings, public fora, etc.) provide interpretation, are publicized adequately in advance, and are held at accessible locations and at times that accommodate family work schedules;
- Require principals and other school employees to actively engage parents and communities that are disenfranchised, for example, by developing new communication channels, rather than relying on sending notices home with students, and by working with community groups and other local institutions to reach and involve more parents; and
- Ensure that superintendents and their staff, as well as parent support centers, are accessible and located within a reasonable distance from the parents and community groups they are meant to serve.

Accessible and welcoming structures for effective participation in schooling also require that clear information and consistent support be made available to parents and community members. The new

regional support centers proposed in the Children First reforms should create an orientation process to introduce new parents to the school system, be open at times that are convenient and accessible, be sufficiently staffed to respond to those seeking assistance, and be equipped with bilingual services. By incorporating these components into their reforms, the school system can develop models of effective parent and community engagement practice that meet human rights standards.

Transparency and Adequate Access to Information

Given how poorly school participation structures function, it is hardly surprising that they fail to ensure transparency of information for parents and the broader public, which is critical to meeting human rights standards for participation. Although the city school system has made significant strides in providing a variety of school performance data on the web, parents and community members routinely face barriers when trying to access important data and documents. Despite repeated requests to her child's teacher and principal, for example, one parent we interviewed was unable to obtain any type of syllabus or work plan for her daughter's class, so that she could assist her daughter with homework.[49] A community-based organization attempting to help a parent was unable to procure a copy of the school budget from school officials or members of the SLT.

Even when parents and other members of civil society are able to access information, it is often not provided in a format that parents and communities can understand or translated into the primary languages spoken within the community. One community advocate we interviewed struggled for weeks to gain access to her school's Comprehensive Education Plan (CEP), and then was unable to receive help from school officials or the SLT in trying to interpret the document. Most schools do not translate CEPs and other schooling documents into workable English or other languages. New York City schools do implement Performance Assessment for Schools System-wide (PASS), an annual self-evaluation process conducted by SLTs, and the system is producing more detailed and comprehensive data about school, district and system performance. However, much of this information is neither readily accessible nor comprehensible to the average parent.

> "I couldn't get my child's syllabus...Parents want to be able to follow their kids' education throughout the year – I don't want just to see the standards or test scores they have to meet, but what they're being taught in order to reach those standards."
>
> *Parent, Mothers on the Move*

> "It matters how the school gets the information out – they need to try harder to get the important messages and notices into the homes."
>
> *Parent, Mothers on the Move*

> "Involving parents is hard, and schools say they don't have the time or resources to make it happen. But parents want to be involved. They want information, and they want a way to get the information they need that is consistent with their work schedule."
>
> *Parent, Queensbridge Community in Action*

Civil society must be able to access and interpret information about finances and resources, management and decision-making, as well as about curriculum and program at the classroom level. Such information should be made easily available, and where

ACCESS TO INFORMATION IN EDUCATION IN THE UK AND NETHERLANDS

Other countries acknowledge the need for transparency and access to information to facilitate civil society participation. In the United Kingdom, for example, there is a national system of school inspection established under the Office for Standards in Education that assesses the quality of teaching, learning and management in every school. Inspections are conducted by a 3 to 4 person team that gathers evidence from parents, students, teachers and others. The process is designed to foster transparency and public access to information. Final reports on each school, as well as the manual containing the criteria used in the inspection, are made available to the public. Individual schools are required to "circulate a summary of the main points to all parents, and to inform parents how they can gain access to the whole report from the school."[1]

In the Netherlands, transparency and public accountability for the quality of education is a mandatory component of school management at national and local levels. All schools are obligated to develop and distribute a "school handbook" supplying parents with "detailed information on the school program and its effectiveness."[2]

1 Center for Educational Research and Innovations, *New School Management Approaches*, Organisation for Economic Co-operation and Development, 2001 at p. 153.
2 *Id.* at p. 190.

possible widely distributed to parents, community organizations and other members of civil society.

Ensuring broad access to relevant information is essential in order for civil society to participate in school management, and monitor whether the school system is meeting its human rights obligations. To ensure greater transparency and access to information, New York City, in consultation with civil society groups, needs to:

Ensure access to all relevant information such as city-level, district and school budgets, CEPs, data on school and student performance, curricula, and class syllabi;
Ensure the transparency of information so that it is presented in formats that are easy to understand, translated into the primary languages spoken by the community, and disseminated in a timely manner; and
Work with community-based organizations and other civic actors to develop new and more effective dissemination strategies.

D. Building the Capacity of Parents and Communities for Informed and Effective Participation

Under a human rights framework, governments are obligated to build the capacity of civil society, especially its primary stakeholders, to make meaningful contributions to the management and oversight of public institutions. The Committee on the Rights of the Child directs states to "take all effective measures to promote capacity-building among community-based organizations and to further facilitate their inclusion in the coordination, promotion and implementation of [the right to education]."[50] Because parent groups and community organizations representing parents are the most invested stakeholders in the context of education, their capacity building needs are a priority.

Yet, parents in New York City report that they have not been trained adequately or given the necessary tools to build their capacity for meaningful partici-

"The city offers no good workshops for parents – the issues discussed are so basic they're useless – the parents aren't interested in workshops on where to find the library – they want to know how to interpret a Comprehensive Education Plan."

Parent, Mothers on the Move

pation. Parents report they often feel dominated by principals and teachers on SLTs because these education practitioners are more knowledgeable and confident about schooling issues and better able to exert their influence. Parents also report that they are unable to interpret documents like CEPs, budgeting procedures and other technical processes. Fulfilling this capacity-building obligation is certainly more difficult in a climate of fiscal crisis. But even in less distressed fiscal climates, the school system has not viewed this kind of support as a key responsibility.

Reform movements in other cities have recognized the critical nature of capacity building. For example, in the early stages of Chicago's far-reaching school reform of the late 1980's, foundations and corporations raised millions of dollars to support the training of members of Local School Councils, the elected governance bodies that oversaw Chicago's schools. To build the capacity of parent groups and other relevant civil society actors, New York City, in consultation with civil society groups, needs to:

Identify priorities for training, such as workshops on interpreting budgets and CEPs, and on the standards children are expected to meet and what parents can do to help their children meet those standards;

Ensure that training sessions are accessible to civil society, held at times of the day and in locations that ensure broad access, and are available in the key languages spoken by the community; and

Ensure that those who conduct trainings are knowledgeable, qualified, and skilled in communicating effectively with parents and communities, for example, by developing trainings with community-based organizations that have experience in disseminating and explaining information about the school system to parents and community members.

CAPACITY BUILDING IN BURKINA FASO

Governments and UN agencies in other countries stress the importance of capacity building to ensure that civil society can collaborate with school practitioners on an equal footing. In Burkina Faso, for example, human rights projects build community-based partnerships and develop the capacity of local organizations, parents and school administrators to work together effectively. UNICEF sponsored programs in that country have "trained 151 mother/student associations, school management committees, and parent/student associations to mobilize support for enhancing girls' academic achievement."[1]

1 UNICEF, *Girls' Education in Burkina Faso*, Country Highlights, www.unicef.org/programme/girlsducation/action/ed_profiles/Fasofinal.PDF

Photo: Laura Dwight

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Building Human Rights Structures: The Role of an Ombudsperson for the Right to Education

"[O]mbudsmen could translate the current emphasis on accountability in education into practice."

Katarina Tomasevski,
UN Special Rapporteur on the Right to Education

Current structures in the New York City education system that exist to address parent and community concerns are inadequate. For example, when parents and community-based organizations are unable to resolve an issue at the school level, they have no effective procedures to seek remedies[51] or gain access to the necessary officials or offices. Most often they employ informal means – letter writing, requests for meetings, or even organized protests – to seek a solution. While these informal efforts sometimes prod the system to respond to specific complaints, they rarely, if ever, succeed in transforming the poor quality or insular nature of schools in poor communities. Parents face a consistent lack of responsiveness from too many administrators and a persistent failure to grant low-income parents a real voice in the system that educates their children.

Structures based on human rights standards should be created outside the New York City government chain of command to independently support parent and community participation and increase government accountability. An ombudsperson is one classic example of a human rights structure[52] that can facilitate and support effective participation in education governance and create greater transparency of and access to information.

An ombudsperson is an institution created for the people to protect them from the acts, omissions and violations of rights by the government.[53] An ombudsperson must be independent and impartial, as well as universally accessible, and empowered to make and publicize recommendations. The office helps to balance power between government institutions and individuals, and to create official reinforcement and support for the efforts of advocacy communities and aggrieved individuals. The office can be created through federal, local, or municipal law, and can be appointed or elected.

For such an office to successfully serve as an independent resource for civil society, it should meet the following basic criteria:

- The ombudsperson must not be part of any authority within the state or city, nor be subordinated to the state or city. Authorities must be legally obligated to assist the ombudsperson in his/her investigation; provide him/her with all required

information; and provide proper financial and personnel resources for the office to carry out its functions.

- Confidentiality. The ombudsperson must be free from the obligation of providing state or city agencies with any information received during a complaint or investigation, and must maintain confidentiality in all the cases brought before the office.
- Access guaranteed to everyone. Because an ombudsperson works for all the people, there must be assurances that access of the people is not deterred by bureaucracy and territorial or communication issues or by internal policies of the institution.
- Assurance against reprisal. There must be assurances that those seeking assistance from the ombudsperson will not suffer reprisals from the government.
- Publicity of the body. The existence and functions of the office should be widely publicized.
- Impartiality and integrity. The impartiality and integrity of the office must be guaranteed to ensure just and objective determinations, and legitimacy before the public.

Many countries have created ombudspersons to protect and promote fundamental rights. These ombudspersons either address a wide range of civil, political, economic, and social rights, or deal with a particular right, such as education, or subset of the population, such as children.[54] Ombudspersons can have national, regional or local jurisdiction.

In Spain, for example, the city of Madrid has established an Ombudsman for Children who oversees a wide range of children's rights issues, including the right to education. The Ombudsman is elected by members of the Madrid Assembly, is impartial and independent of the government, and has a staff of 18 people, including legal advisors, sociologists, psychologists, and counselors.[55] The Ombudsman's office focuses on the education needs of marginalized children and the integration of children with special needs. It has issued reports and recommendations leading to positive changes in the administration of Madrid's school system.[56]

Duties of the Madrid Ombudsman include monitoring the impact of laws and policies on children by receiving and investigating complaints from children and parents, and collecting data on schools and other services affecting children. The Ombudsman formulates warnings, recommendations and suggestions for government, and influences policy development at local/community and regional levels. The Ombudsman also seeks to raise public awareness of human rights, provides information and counseling to children and parents, visits local schools, and trains professionals and other groups on children's rights.

Many ombudspersons focus on educating parents and children about their rights. For example, the Ombudsperson for Children in Macedonia has developed a guide on children's rights guaranteed in the Convention on the Rights of the Child, the Constitution of the Republic of Macedonia and the existing legislation and administrative regulations. The guide is disseminated in all primary and secondary schools, sometimes accompanied by training from the Ombudsperson's office, "in order to familiarize children with their rights,...[and] to acquaint teachers and other educational workers with the rights of the children."[57]

Although there has never been an ombudsperson to support parent and community participation and increase government accountability for improving poorly performing schools in New York City, ombudsperson functions have been played by various governmental offices. The Office of Special Investigations of the Department of Education has, historically, investigated cases of fiscal and other

THE UNITED STATES OMBUDSMAN ASSOCIATION LEGISLATIVE MODEL

1. A governmental office created by constitution, charter, legislation or ordinance
2. An office with responsibility to receive and investigate complaints against governmental agencies
3. An office with freedom to investigate on its own motion
4. An office which may exercise full powers of investigation, to include access to all necessary information both testimonial and documentary
5. An office with the authority to criticize governmental agencies and officials within its jurisdiction and to recommend corrective action
6. An office with the power to issue public reports concerning its findings and recommendations
7. An office directed by an official of high stature who:
   - is guaranteed independence through a defined term of office and/or through appointment by other than the executive and/or through custom;
   - is restricted from activities constituting a personal, professional, occupational or political conflict of interest; and
   - is free to employ and remove assistants and to delegate administrative and investigative responsibility to those assistants.

United States Ombudsman Association, www.usombudsman.org/AboutUSOA/association.htm.

corruption. The Office of the Public Advocate has also played a monitoring role, releasing occasional reports on school facilities conditions, class size and other critical schooling issues. Limited resources and authority, however, have prevented either office from addressing the pervasive lack of school responsiveness and the poor quality of education in districts serving low-income neighborhoods and communities of color. Recently, a wide-ranging group of parents, advocates and community organizations called for the creation, by state law, of a "fully funded and independent office of public education advocate to support parents and students and their organizations, and serve as a monitor and legal advocate for them."[58]

International examples help clarify the role that a human rights ombudsperson in the New York City school system might usefully play. At minimum, such an office should:

Monitor and investigate violations of the right to education by gathering information from stakeholders and officials, receiving and investigating complaints from parents and other civil society actors, and analyzing data;

Issue public findings and recommendations documenting violations and failures of government accountability, and suggest corrective measures based on internationally recognized human rights standards;

Serve as an advocate for civil society with government offices and school officials, in particular for instances of widespread or systemic violations; and

Facilitate access to existing remedies for victims of violations and/or file complaints in courts to protect the right to education.

To amplify the voice of civil society and ensure input from a broad array of communities,[59] the office should also work closely with parents and community organizations to organize dialogues about schooling effectiveness and bring undetected

violations to light, and to facilitate the exchange of information among groups or institutions undertaking their own monitoring of the right to education. It could also gather input from civil society, for example, by creating an advisory board that represents a wide range of stakeholders, and evaluates the performance of the ombudsperson.

Lastly, the office of a human rights ombudsperson can serve as an important resource for information about human rights standards and government obligations, providing trainings to parents and community organizations, as well as to teachers, principals, parent coordinators, community engagement staff, and district and city officials.

Conclusion

New York City is currently going through the most extensive re-organization of its schools in the last 30 years. Although the rhetoric of reform emphasizes accountability, participation, transparency and access, there is little real evidence of this shift in the daily practice of schools. International human rights standards and practice offer a compelling framework to support and implement such a shift, and thus create mutually reinforcing structures of participation and accountability designed to safeguard the human right to education. Communities, advocates and policy-makers must work collectively towards creating these structures and human rights offers a strong conceptual basis to engage in this critical effort.

ENDNOTES

1 Remarks by Mayor Michael R. Bloomberg, Major Address on Education at New York Urban League's Dr. Martin Luther King, Jr. Symposium, January 15, 2003.

2 Universal Declaration of Human Rights, Article 26. The Universal Declaration of Human Rights was adopted unanimously by the United Nations General Assembly on December 10, 1948.

3 International Covenant on Economic, Social and Cultural Rights, Article 13, *entered into force* January 3, 1976. The United States has signed but not ratified the International Covenant on Economic, Social and Cultural Rights. As a signatory the U.S. is obligated to refrain from violating the "object and purpose" of the covenant (*see* Vienna Convention on the Law of Treaties, Article 18, *entered into force* January 27, 1980). The Covenant has been ratified by over 145 countries.

4 General Comment 1, UN Committee on the Rights of the Child, CRC/GC/2001/1 at par. 1. The UN Committee on the Rights of the Child, a treaty-body created to monitor government compliance with the Convention on the Rights of the Child (*see infra* n. 10), issues general comments to provide guidance on treaty implementation. General Comment 1 addresses implementation of Article 29 of the Convention on the aims of education.

5 New York State Constitution, Art. 11: "The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated."

6 *See infra* Section II for an extensive definition and discussion of civil society and civil society actors.

7 There are approximately 1200 schools and 1.1 million students in the New York City public school system. Information on how schools and student populations are distributed across the five boroughs and various neighborhoods in New York City is available on the Department of Education website at www.nycenet.edu.

8 Interviewees included 8 policy advocates, 7 community activists, & 10 parents working with community groups.

9 International Covenant on Civil and Political Rights, *ratified by* U.S. June 8, 1992. Because the United States has ratified the Covenant, it is part of US federal law. The Covenant has been ratified by over 148 countries.

10 Convention on the Rights of the Child, *entry into force* November 20, 1989. The United States has signed but not ratified the Convention on the Rights of the Child. The U.S. and Somalia remain the only member states in the United Nations that have not yet ratified the Convention. As a signatory the U.S. is obligated to refrain from violating the "object and purpose" of the Convention (*see* Vienna Convention on the Law of Treaties, Article 18). The Convention has been ratified by over 190 countries.

11 The World Declaration on Education for All was adopted by 155 countries in Jomtien, Thailand in 1990. The UN Committee on Economic, Social and Cultural Rights stated in its General Comment 13 (*see infra* n. 13) that the Declaration is a tool for expanding on the right to education as found in the International Covenant on Economic, Social and Cultural Rights.

12 The Dakar Framework for Action was adopted by 155 countries at the World Education Forum in Dakar, Senegal in April, 2000. It reaffirms and expands upon the vision of education developed in the World Declaration on Education for All. The UN Committee on Economic, Social and Cultural Rights references commitments and strategies laid out in the Dakar Framework for Action in concluding observations on country reports (E/C.12/1/Add.56, 21 May 2001, Venezuela; E/C.12/1/Add.52, 1 December 2000, Finland; and many others). The Dakar Framework for Action is also referenced by the UN Committee on the Rights of the Child in its General Comment 1 on the aims of education.

13 General Comment 13, UN Committee on Economic, Social and Cultural Rights, E/C.12/1999/10 at par. 23 (*see supra* n. 4 for explanation of UN committees and general comments). General Comment 13 addresses implementation of Article 13 on the right to education of the International Covenant on Economic, Social and Cultural Rights.

14 World Declaration on Education for All, Article 1, at par.7. (The UN Committee on the Rights of the Child has also found that: "Basic skills include not only literacy and numeracy but also life skills such as the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner; and to develop a healthy lifestyle, good social relationships and responsibility, critical thinking, creative talents, and other abilities which give children the tools needed to pursue their options in life." General Comment 1 at par. 9.)

15 *Id.*, Article 1 at par. 1.

16 NYC Department of Education, *Report on the 2002 Results of the State Elementary and Intermediate English Language Arts Tests and the City Reading and Math Assessments*, July 10, 2002 at p. 4.

17 NYC Department of Education, *The Class of 2001Four-Year Longitudinal Graduation and Dropout Report*, April 24, 2002 at p. 7.

18 315 schools in New York City have been identified as "schools in need of improvement" by the State Department of Education and the federal No Child Left Behind Act.

19 Campaign for Fiscal Equity, *Reforming New York State's Flawed School Finance System, In Evidence: Policy Reports from the CFE Trial*, Volume 2, November 2000.

20 The Metropolitan Parent Center of Sinergia, *Race, Language and Special Education in New York City*, 2000.

21 IESP, *Distributing Teacher Quality Equitably: The Case of New York City*, Spring 2001 Policy Brief.

22 Stiefel, Leanna, Amy Ellen Schwartz, Patrice Iatarola & Norm Fruchter, *Academic Performance, Characteristics, and Expenditures in New York City Elementary and Middle Schools, A Condition Report*, NY State Education Department, April 2000 (data is from the NYC Board of Education).

23 *Id.*

24 *Id.*

25 Centre for *Civil Society, Civil Society: A very brief history*, Briefing No. 1, Department of Social Policy, London School of Economics, 2001.

26 *Id.*

27 Geremek, Bronislaw, *Civil Society and the Present Age*, The Idea of Civil Society, National Humanities Center, 1992.

28 Centre for Civil Society, *Civil Society: A very brief history*, Briefing No. 1, Department of Social Policy, London School of Economics, 2001 (whether civil society excludes the market is still a subject of the debate, but the majority of commentators take the position that it does. Civil society has also been seen as a transnational force through which people in different countries can come together outside of formal government relations to tackle international problems (i.e. the environment)).

29 Written Statement submitted by the American Association of Jurists to the UN Commission on Human Rights, E/CN.4/1999/NGO/2 29 January 1999 at par. 2.

30 *Id.* at par 5.

31 Stone, Clarence N. & Jeffrey R. Henig, Bryan D. Jones & Carol Pierannunzi, *Building Civic Capacity: The Politics of Urban Education Reform*, University of Kansas, 2001.

32 Written Statement submitted by the American Association of Jurists to the UN Commission on Human Rights, E/CN.4/1999/NGO/2 29 January 1999 at par 1.

33 The right to participation is a cross-cutting human rights principle found in many human rights documents, including Article 25 of the International Covenant on Civil and Political Rights, General Comment 25 (adopted 7/12/96, 1510th meeting, 57th session) by the UN Human Rights Committee, and General Comment 13 by the UN Committee on Economic, Social and Cultural Rights.

34 Clarence Stone and others have conceptualized civil society mobilization as "civic capacity," which he argues is critical to public education reform. For a longer discussion of civic capacity, *see* Stone, Clarence N. & Jeffrey R. Henig, Bryan D. Jones & Carol Pierannunzi, *Building Civic Capacity: The Politics of Reforming Urban Schools*, University of Kansas Press, 2001.

35 Participation in management, evaluation and budgeting is found in the Dakar Framework for Action, and parental approval of curricula and teaching methods is found in General Comment 13 by the UN Committee on Economic, Social and Cultural Rights.

36 *See* Medsratta, Kavitha & Norm Fruchter, *From Governance to Accountability*, NYU Institute for Education and Social Policy and Drum Major Institute for Public Policy, 2002, for a longer discussion of the structural limitations of current accountability structures.

37 PA/PTAs are meant to provide a forum for parents to voice their concerns, to access teachers and principals, and to provide some mechanisms for parent participation in school governance, such as the election of parents to committees for selecting school principals.

38 School Leadership Teams are made up of parents, teachers, and the school principal, and in some cases students and members of the community as well. They are meant to facilitate the collaboration of civil society and school administrators to develop Comprehensive Education Plans (CEP), review budgets, and evaluate educational programs.

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39 In June 2002, the New York State Legislature passed school reform legislation that mandates dissolving Community School Boards by June of 2003. A Task Force was appointed to develop recommendations for structures to replace them. The Community School Boards, as they currently exist, are intended to facilitate broad community participation in district decision-making processes and to provide a forum for parents and communities to express their concerns. The Community School Boards' decision-making authority has varied over time, with different degrees of influence over the hiring and evaluation of superintendents and school administrators.

40 Our interviews indicate that in a significant number of schools SLTs do not function properly, are not in place at all, or lack the required 50% parent representation.

41 Parent Organizing Consortium, *Our Principles in Action: A Governance Proposal for School Leadership Teams with Real Democracy, Accountability and Power*, 2002.

42 ACORN, a citywide organization of low income and working class families, released a series of *Secret Apartheid* reports in 1995 that documented the denial of resources to students of color, and the subsequent tracking of these students in the city schools from kindergarten onwards. ACORN used a tactic developed by groups testing for housing discrimination. To analyze the extent to which children of color were routinely denied access to special programs, they sent teams of black parents and white parents to inquire separately about opportunities to enroll their children in gifted programs. They reported that black parents were routinely forced to wait and then denied information about gifted programs.

43 The United Nations Educational, Scientific and Cultural Organization (UNESCO), a UN agency with over 180 member states, promotes collaboration among nations through education, science, culture and communication in order to further universal respect for justice, the rule of law, human rights and fundamental freedoms. UNESCO's functions include conducting prospective studies on what forms of education are needed for the future, promoting the sharing of knowledge through research, training and teaching activities and setting standards on education (*see* www.unesco.org/general/eng/about/what.shtml).

44 Shaffer, Sheldon, *Participation for Educational Change: A Synthesis of Experience*, Paris, 1994, UNESCO: International Institute for Educational Planning.

45 *Id.* at p. 121.

46 *Id.* at p. 120.

47 *Id.* at p. 159.

48 *Id.* at p. 169.

49 The Department of Education does publish yearly guides on student curriculum. However, these guides are not specific to individual classrooms and a parent can only get information about what is going on day to day in the class from her or his child's teachers. While some teachers do not develop a syllabus, the information in any form is useful to the parent. Indeed, research has indicated that parental support in the day-to-day learning of lessons is one of the important contributions to student achievement (*see* Henderson, Anne, & Karen L. Mapp, *A New Wave of Evidence: The Impact of School, Family and Community Connections on Student Achievement*, Southwest Educational Development Laboratory, Austin, 2002).

50 UN Committee on the Rights of the Child, Concluding Observations: South Africa, 23/02/2000, CRC/C/15/Add.122. The UN Committee on the Rights of the Child requires mechanisms for capacity building for all the rights found in the Convention on the Rights of the Child, including the right to education.

51 Current remedies in the NYC school system, such as Article 7, Section 310 of the New York State Education Law (N.Y. EDUCATION LAW § 310 (McKinney 2003)) are "little known and rarely used" (*see* www.insideschools.org). Even when remedies, such as the option to transfer to another school, have received widespread attention, they remain inadequate. While transfer is theoretically guaranteed by the No Child Left Behind initiative with regard to certain low-performing schools, this remedy is clearly illusory in relation to any large number of students. An essential principle of the human rights framework is that governments must make effective remedies available to all victims of human rights violations. Remedies must provide reparations - they must "repair" the damage done by the violation - at the individual and collective level, through judicial, administrative or other appropriate means, which may include a legal guarantee that the violation will not be repeated in the future. The right to an effective remedy is reflected in documents such as the International Covenant on Civil and Political Rights, General Comment 3 (adopted 14/12/90, contained in E/1991/23) and General Comment 9 (E/C.12/1998/24) by the UN Committee on Economic, Social and Cultural Rights, and the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, Maastricht, January 22-26, 1997.

52 UN human rights institutions recognize and promote ombudspersons as important structures for ensuring human rights at the domestic level, including the UN Human Rights Commission, the UN Committee on Economic, Social and Cultural Rights and the UN General Assembly (ie. A/RES/48/134, December 23, 1999). The UN Special Rapporteur on the Right to Education, Professor Katarina Tomasevski, also highlights the role of ombudspersons in fulfilling the right to education (*see* Tomasevski, Katarina, *From the Outside Looking In: Changing New York City's Education Through the Human Rights Approach*, 15 April 2002).

53 Several international and regional human rights institutions have developed criteria for the basic role and functions of human rights ombudspersons. For example, in 1993 the UN General Assembly passed a resolution (A/RES/48/134, December 23, 1999) endorsing principles relating to the role, composition and functions of national human rights institutions, such as ombudspersons. These principles were based on recommendations developed by the Center for Human Rights (Geneva) in October 1991 and endorsed by the UN Commission on Human Rights (Resolution 1992/54, March 1992).

54 The UN Committee on the Rights of the Child has commended the creation of ombudspersons for children's rights, including the right to education, in countries around the world (ie. Concluding Observations to Norway, Denmark, Portugal, and Guatemala), and proposed the development of new offices (ie. Concluding Observations to Argentina, China, New Zealand and Sweden). Regional bodies have also promoted ombudspersons for children, including the Council of Europe (*see* Recommendation 1286 on a European Strategy for Children, January 24, 1996).

55 European Network of Ombudsmen for Children, www.ombudsnet.org/Ombudsmen/Madrid/madrid.htm; El Defensor del Menor en la Communidad de Madrid, www.dmenor-mad.es/.

56 For example, through efforts of the Ombudsman, specialist support has been offered in schools to children who are hyperactive and/or have behavioral problems, and special measures have been adopted when teachers are changed in the middle of the school year (*see* Ombudsman for Children's Office in the Community of Madrid, Office Update/1999-2000, www.ombudsnet.org/Ombudsmen/Spain/Spain_Update.htm).

57 Krusarovska, Nevenka, Deputy Ombudsman in Charge of Protection of Children's Rights, *Authority and Structure of the Ombudsman's Office and the Department for Protection of Children's Rights*, www.ombudsnet.org/Ombudsmen/Macedonia/Macedonia_Update.htm.

58 People's Coalition to Take Back our Schools, Proposal for a New York City Public Education Advocate, 2003, www.takebackourschools.info.

59 The UN recognizes civil society collaboration and oversight in the functioning of an ombudsperson as an important component to ensure its independence and effectiveness in protecting human rights. "The composition of the national institution and the appointment of its members…[should] ensure the pluralist representation of social forces (of civil society) involved in the promotion of human rights." (UN General Assembly Resolution 48/134 1993).

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I. Articles on the Right to Education Found in Principal Human Rights Conventions and Declarations

Universal Declaration of Human Rights

ARTICLE 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

International Covenant on Economic, Social and Cultural Rights

ARTICLE 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
   (a) Primary education shall be compulsory and available free to all;
   (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
   (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
   (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
   (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

Convention on the Rights of the Child

ARTICLE 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
   (a) Make primary education compulsory and available free to all;
   (b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
   (c) Make higher education accessible to all on the

NOTE: This appendix is comprised of excerpts from many of the key human rights documents relevant to this paper. Where paragraph or article numbers are not continuous within the excerpts from an individual document, whole paragraphs were excluded. Additionally, some sub-sections of paragraphs were also excluded without indicating the gaps in the appendix.

basis of capacity by every appropriate means;

(d) Make educational and vocational information and guidance available and accessible to all children;

(e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

ARTICLE 29

1. States Parties agree that the education of the child shall be directed to:

(a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

(b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

(c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

(d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

(e) The development of respect for the natural environment.

II. Excerpts from Declarations, General Comments and other Documents Expanding on the Right to Education

World Declaration on Education For All: Meeting Basic Learning Needs

ARTICLE I – MEETING BASIC LEARNING NEEDS

1. Every person - child, youth and adult - shall be able to benefit from educational opportunities designed to meet their basic learning needs. These needs comprise both essential learning tools (such as literacy, oral expression, numeracy, and problem solving) and the basic learning content (such as knowledge, skills, values, and attitudes) required by human beings to be able to survive, to develop their full capacities, to live and work in dignity, to participate fully in development, to improve the quality of their lives, to make informed decisions, and to continue learning. The scope of basic learning needs and how they should be met varies with individual countries and cultures, and inevitably, changes with the passage of time.

4. Basic education is more than an end in itself. It is the foundation for lifelong learning and human development on which countries may build, systematically, further levels and types of education and training.

ARTICLE III – UNIVERSALIZING ACCESS AND PROMOTING EQUITY

1. Basic education should be provided to all children, youth and adults. To this end, basic education services of quality should be expanded and consistent measures must be taken to reduce disparities.

2. For basic education to be equitable, all children, youth and adults must be given the opportunity to achieve and maintain an acceptable level of learning.

4. An active commitment must be made to removing educational disparities. Underserved groups: the poor; street and working children; rural and remote populations; nomads and migrant workers; indigenous peoples; ethnic, racial, and linguistic minorities; refugees; those displaced by war; and people under

occupation, should not suffer any discrimination in access to learning opportunities.

5. The learning needs of the disabled demand special attention. Steps need to be taken to provide equal access to education to every category of disabled persons as an integral part of the education system.

ARTICLE IV – FOCUSSING ON LEARNING

Whether or not expanded educational opportunities will translate into meaningful development - for an individual or for society - depends ultimately on whether people actually learn as a result of those opportunities, i.e., whether they incorporate useful knowledge, reasoning ability, skills, and values. The focus of basic education must, therefore, be on actual learning acquisition and outcome, rather than exclusively upon enrolment, continued participation in organized programmes and completion of certification requirements. Active and participatory approaches are particularly valuable in assuring learning acquisition and allowing learners to reach their fullest potential. It is, therefore, necessary to define acceptable levels of learning acquisition for educational programmes and to improve and apply systems of assessing learning achievement.

ARTICLE VI – ENHANCING THE ENVIRONMENT FOR LEARNING

Learning does not take place in isolation. Societies, therefore, must ensure that all learners receive the nutrition, health care, and general physical and emotional support they need in order to participate actively in and benefit from their education. Knowledge and skills that will enhance the learning environment of children should be integrated into community learning programmes for adults. The education of children and their parents or other caretakers is mutually supportive and this interaction should be used to create, for all, a learning environment of vibrancy and warmth.

ARTICLE VII – STRENGTHENING PARTNERSHIPS

National, regional, and local educational authorities have a unique obligation to provide basic education for all, but they cannot be expected to supply every human, financial or organizational requirement for this task. New and revitalized partnerships at all levels will be necessary: partnerships among all sub-sectors and forms of education, recognizing the special role of teachers and that of administrators and other educational personnel; partnerships between education and other government departments, including planning, finance, labour, communications, and other social sectors; partnerships between government and non-governmental organizations, the private sector, local communities, religious groups, and families. The recognition of the vital role of both families and teachers is particularly important....Genuine partnerships contribute to the planning, implementing, managing and evaluating of basic education programmes. When we speak of "an expanded vision and a renewed commitment", partnerships are at the heart of it.

The Dakar Framework for Action Education for All: Meeting our Collective Commitments

6. Education is a fundamental human right. It is the key to sustainable development and peace and stability within and among countries, and thus an indispensable means for effective participation in the societies and economies of the twenty-first century, which are affected by rapid globalization. Achieving [Education For All] goals should be postponed no longer. The basic learning needs of all can and must be met as a matter of urgency.

8. [W]e the governments, organizations, agencies, groups and associations represented at the World Education Forum pledge ourselves to:

   (i) mobilize strong national and international political commitment for education for all, develop national action plans and enhance significantly investment in basic education;

   (ii) promote EFA policies within a sustainable and well-integrated sector framework clearly linked to poverty elimination and development strategies;

(iii) ensure the engagement and participation of civil society in the formulation, implementation and monitoring of strategies for educational development;

(iv) develop responsive, participatory and accountable systems of educational governance and management;

(v) meet the needs of education systems affected by conflict, national calamities and instability and conduct educational programmes in ways that promote mutual understanding, peace and tolerance, and help to prevent violence and conflict;

(vi) implement integrated strategies for gender equality in education which recognize the need for changes in attitudes, values and practices;

(vii) implement as a matter of urgency education programmes and actions to combat the HIV/AIDS pandemic;

(viii) create safe, healthy, inclusive and equitably resourced educational environments conducive to excellence in learning with clearly defined levels of achievement for all;

(ix) enhance the status, morale and professionalism of teachers;

(x) harness new information and communication technologies to help achieve EFA goals;

(xi) systematically monitor progress towards EFA goals and strategies at the national, regional and international levels; and

(xii) build on existing mechanisms to accelerate progress towards education for all.

Expanded Commentary

9. The right to education imposes an obligation upon States to ensure that all citizens have opportunities to meet their basic learning needs. Primary education should be free, compulsory and of good quality. The education systems of tomorrow, however diversified they may be, will need to be transparent and accountable in how they are governed, managed and financed. The indispensable role of the State in education must be supplemented and supported by bold and comprehensive educational partnerships at all levels of society. Education for All implies the involvement and commitment of all to education.

[Strategy] 3: Ensure the engagement and participation of civil society in the formulation, implementation and monitoring of strategies for educational development

53. Learners, teachers, parents, communities, non-governmental organizations and other bodies representing civil society must be granted new and expanded political and social scope, at all levels of society, in order to engage governments in dialogue, decision-making and innovation around the goals for basic education. Civil society has much experience and a crucial role to play in identifying barriers to EFA goals, and developing policies and strategies to remove them.

54. Such participation, especially at the local level through partnerships between schools and communities, should not only be limited to endorsing decisions of, or financing programmes designed by, the state. Rather, at all levels of decision-making, governments must put in place regular mechanisms for dialogue enabling citizens and civil society organizations to contribute to the planning, implementation, monitoring and evaluation of basic education. This is essential in order to foster the development of accountable, comprehensive and flexible educational management frameworks. In order to facilitate this process, capacity will often have to be developed in the civil society organizations.

General Comment 13: The right to education

UN Committee on Economic, Social and Cultural Rights

1. Education is both a human right in itself and an indispensable means of realizing other human rights. As an empowerment right, education is the primary vehicle by which economically and socially marginalized adults and children can lift themselves

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out of poverty and obtain the means to participate fully in their communities....Increasingly, education is recognized as one of the best financial investments States can make. But the importance of education is not just practical: a well-educated, enlightened and active mind, able to wander freely and widely, is one of the joys and rewards of human existence....

1. Normative Content of Article 13

6. While the precise and appropriate application of the terms will depend upon the conditions prevailing in a particular State party, education in all its forms and at all levels shall exhibit the following interrelated and essential features:

   (a) Availability - functioning educational institutions and programmes have to be available in sufficient quantity within the jurisdiction of the State party. What they require to function depends upon numerous factors, including the developmental context within which they operate; for example, all institutions and programmes are likely to require buildings or other protection from the elements, sanitation facilities for both sexes, safe drinking water, trained teachers receiving domestically competitive salaries, teaching materials, and so on; while some will also require facilities such as a library, computer facilities and information technology;

   (b) Accessibility - educational institutions and programmes have to be accessible to everyone, without discrimination, within the jurisdiction of the State party. Accessibility has three overlapping dimensions:

   Non-discrimination - education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds (see paras. 31-37 on non-discrimination);

   Physical accessibility - education has to be within safe physical reach, either by attendance at some reasonably convenient geographic location (e.g. a neighbourhood school) or via modern technology (e.g. access to a "distance learning" programme);

   Economic accessibility - education has to be affordable to all. This dimension of accessibility is subject to the differential wording of article 13 (2) in relation to primary, secondary and higher education: whereas primary education shall be available "free to all", States parties are required to progressively introduce free secondary and higher education;

   (c) Acceptability - the form and substance of education, including curricula and teaching methods, have to be acceptable (e.g. relevant, culturally appropriate and of good quality) to students and, in appropriate cases, parents; this is subject to the educational objectives required by article 13 (1) and such minimum educational standards as may be approved by the State (see art. 13 (3) and (4));

   (d) Adaptability - education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.

12. While the content of secondary education will vary among States parties and over time, it includes completion of basic education and consolidation of the foundations for life-long learning and human development. It prepares students for vocational and higher educational opportunities. Article 13 (2) (b) applies to secondary education "in its different forms", thereby recognizing that secondary education demands flexible curricula and varied delivery systems to respond to the needs of students in different social and cultural settings....

16. An introduction to technology and to the world of work...should be understood as a component of general education....

22. In general terms, fundamental education corresponds to basic education as set out in the World Declaration

on Education For All. By virtue of article 13 (2) (d), individuals "who have not received or completed the whole period of their primary education" have a right to fundamental education, or basic education as defined in the World Declaration on Education For All.

23. Since everyone has the right to the satisfaction of their "basic learning needs" as understood by the World Declaration, the right to fundamental education is not confined to those "who have not received or completed the whole period of their primary education". The right to fundamental education extends to all those who have not yet satisfied their "basic learning needs."

27. While the Covenant requires that "the material conditions of teaching staff shall be continuously improved", in practice the general working conditions of teachers have deteriorated, and reached unacceptably low levels, in many States parties in recent years. Not only is this inconsistent with article 13 (2) (e), but it is also a major obstacle to the full realization of students' right to education....

35. Sharp disparities in spending policies that result in differing qualities of education for persons residing in different geographic locations may constitute discrimination under the Covenant.

37. States parties must closely monitor education - including all relevant policies, institutions, programmes, spending patterns and other practices - so as to identify and take measures to redress any de facto discrimination. Educational data should be disaggregated by the prohibited grounds of discrimination.

II. States Parties' Obligations and Violations

43. States parties have immediate obligations in relation to the right to education, such as the "guarantee" that the right "will be exercised without discrimination of any kind" (art. 2 (2)) and the obligation "to take steps" (art. 2 (1)) towards the full realization of article 13. Such steps must be "deliberate, concrete and targeted" towards the full realization of the right to education.

46. The right to education, like all human rights, imposes three types or levels of obligations on States parties: the obligations to respect, protect and fulfil. In turn, the obligation to fulfil incorporates both an obligation to facilitate and an obligation to provide.

47. The obligation to respect requires States parties to avoid measures that hinder or prevent the enjoyment of the right to education. The obligation to protect requires States parties to take measures that prevent third parties from interfering with the enjoyment of the right to education. The obligation to fulfil (facilitate) requires States to take positive measures that enable and assist individuals and communities to enjoy the right to education. Finally, States parties have an obligation to fulfil (provide) the right to education....

49. States parties are required to ensure that curricula, for all levels of the educational system, are directed to the objectives identified in article 13 (1). They are also obliged to establish and maintain a transparent and effective system which monitors whether or not education is, in fact, directed to the educational objectives set out in article 13 (1).

54. States parties are obliged to establish "minimum educational standards" to which all educational institutions established in accordance with article 13 (3) and (4) are required to conform. They must also maintain a transparent and effective system to monitor such standards....

57. In its General Comment 3, the Committee confirmed that States parties have "a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels" of each of the rights enunciated in the Covenant, including "the most basic forms of education."...

58. Violations of article 13 may occur through the direct action of States parties (acts of commission) or through their failure to take steps required by the Covenant (acts of omission).

59. By way of illustration, violations of article 13 include: the introduction or failure to repeal legislation which

discriminates against individuals or groups, on any of the prohibited grounds, in the field of education; the failure to take measures which address de facto educational discrimination; the use of curricula inconsistent with the educational objectives set out in article 13 (1); the failure to maintain a transparent and effective system to monitor conformity with article 13 (1)....

III. Obligations of Actors other than States Parties

60. Coordinated efforts for the realization of the right to education should be maintained to improve coherence and interaction among all the actors concerned, including the various components of civil society....

General Comment 1: The aims of education

UN Committee on the Rights of the Child

1. Article 29, paragraph 1, of the Convention on the Rights of the Child is of far-reaching importance. The aims of education that it sets out, which have been agreed to by all States parties, promote, support and protect the core value of the Convention: the human dignity innate in every child and his or her equal and inalienable rights. These aims, set out in the five subparagraphs of article 29 (1) are all linked directly to the realization of the child's human dignity and rights, taking into account the child's special developmental needs and diverse evolving capacities. The aims are: the holistic development of the full potential of the child (29 (1) (a)), including development of respect for human rights (29 (1) (b)), an enhanced sense of identity and affiliation (29 (1) (c)), and his or her socialization and interaction with others (29 (1) (d)) and with the environment (29 (1) (e)).
2. [I]t also insists upon the need for education to be child-centred, child-friendly and empowering, and it highlights the need for educational processes to be based upon the very principles it enunciates. The education to which every child has a right is one designed to provide the child with life skills, to strengthen the child's capacity to enjoy the full range of human rights and to promote a culture which is infused by appropriate human rights values. The goal is to empower the child by developing his or her skills, learning and other capacities, human dignity, self-esteem and self-confidence....
3. The child's right to education is not only a matter of access (art. 28) but also of content. An education with its contents firmly rooted in the values of article 29 (1) is for every child an indispensable tool for her or his efforts to achieve in the course of her or his life a balanced, human rights-friendly response to the challenges that accompany a period of fundamental change driven by globalization, new technologies and related phenomena....
8. Second, the article attaches importance to the process by which the right to education is to be promoted. This includes not only the content of the curriculum but also the educational processes, the pedagogical methods and the environment within which education takes place, whether it be the home, school, or elsewhere. Children do not lose their human rights by virtue of passing through the school gates. Thus, for example, education must be provided in a way that respects the inherent dignity of the child and enables the child to express his or her views freely in accordance with article 12 (1) and to participate in school life....The participation of children in school life, the creation of school communities and student councils, peer education and peer counselling, and the involvement of children in school disciplinary proceedings should be promoted as part of the process of learning and experiencing the realization of rights.
9. Third Article 29 (1) underlines the individual and subjective right to a specific quality of education. Consistent with the Convention's emphasis on the importance of acting in the best interests of the child, this article emphasizes the message of child-centred education: that the key goal of education is the development of the individual child's personality, talents and abilities, in recognition of the fact that every child has unique characteristics, interests, abili-

ties, and learning needs. Thus, the curriculum must be of direct relevance to the child's social, cultural, environmental and economic context and to his or her present and future needs and take full account of the child's evolving capacities; teaching methods should be tailored to the different needs of different children. Education must also be aimed at ensuring that essential life skills are learnt by every child and that no child leaves school without being equipped to face the challenges that he or she can expect to be confronted with in life. Basic skills include not only literacy and numeracy but also life skills such as the ability to make well-balanced decisions; to resolve conflicts in a non-violent manner; and to develop a healthy lifestyle, good social relationships and responsibility, critical thinking, creative talents, and other abilities which give children the tools needed to pursue their options in life.

10. Discrimination on the basis of any of the grounds listed in article 2 of the Convention, whether it is overt or hidden, offends the human dignity of the child and is capable of undermining or even destroying the capacity of the child to benefit from educational opportunities....

18. The effective promotion of article 29 (1) requires the fundamental reworking of curricula to include the various aims of education and the systematic revision of textbooks and other teaching materials and technologies, as well as school policies. Approaches which do no more than seek to superimpose the aims and values of the article on the existing system without encouraging any deeper changes are clearly inadequate. The relevant values cannot be effectively integrated into, and thus be rendered consistent with, a broader curriculum unless those who are expected to transmit, promote, teach and, as far as possible, exemplify the values have themselves been convinced of their importance. Pre-service and in-service training schemes which promote the principles reflected in article 29 (1) are thus essential for teachers, educational administrators and others involved in child education....

22. Every child has the right to receive an education of good quality which in turn requires a focus on the quality of the learning environment, of teaching and learning processes and materials, and of learning outputs. The Committee notes the importance of surveys that may provide an opportunity to assess the progress made, based upon consideration of the views of all actors involved in the process, including children currently in or out of school, teachers and youth leaders, parents, and educational administrators and supervisors. In this respect, the Committee emphasizes the role of national-level monitoring which seeks to ensure that children, parents and teachers can have an input in decisions relevant to education.

25. States parties should also consider establishing a review procedure which responds to complaints that existing policies or practices are not consistent with article 29 (1). Such review procedures need not necessarily entail the creation of new legal, administrative, or educational bodies. They might also be entrusted to national human rights institutions or to existing administrative bodies....

III. Articles and Excerpts from Covenants and General Comments on the Right to Participation

International Covenant on Civil and Political Rights

ARTICLE 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

(a) To take part in the conduct of public affairs, directly or through freely chosen representatives;

(b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

General Comment 25: The right to participate in public affairs, voting rights and the right of equal access to public service

UN Human Rights Committee

1. Article 25 of the Covenant recognizes and protects the right of every citizen to take part in the conduct of public affairs, the right to vote and to be elected and the right to have access to public service. Whatever form of constitution or government is in force, the Covenant requires States to adopt such legislative and other measures as may be necessary to ensure that citizens have an effective opportunity to enjoy the rights it protects. Article 25 lies at the core of democratic government based on the consent of the people and in conformity with the principles of the Covenant.

5. The conduct of public affairs, referred to in paragraph (a), is a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels. The allocation of powers and the means by which individual citizens exercise the right to participate in the conduct of public affairs protected by article 25 should be established by the constitution and other laws.

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